IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

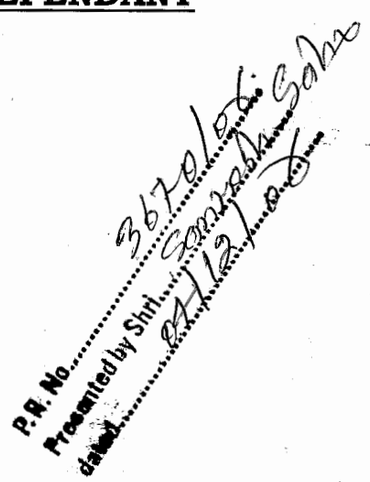
Single Bench

SECOND APPEAL No. 34 /2006 2007

APPELLANT

DEFENDANT

RamChand S/o Durga Prasad Bani aged 56 years resident of and occupation Pan Selling opposite the Mukut Cinema (Takies) Bhatapara Tahsil and Nagar Palika town Bhatapara Distt. Raipur (C.G.)



VERSUS

RESPONDENTS

PLANTIFF

Ram Bihari Agrawal 52 S/o Lakhan Lal Agrawal Aged 52 years cultivator land lord and Resident of Bhatapara opposite the Mukut Cinema (Takies) Bhatapara Tahsil and Nagarpalika Town Bhatapa Distt. Raipur (C.G.)

CLAIM IN APPEAL AS IN THE ORIGINAL SUIT FOR EVICTION AND RECOVERY OF POSSION OF PAN SHOP UNDER S. 12 (F) OF M.P. ACCOMODATION

1804 @ 22-12-06

CONTROL ACT 1961 VALUED AT RS 1,800/- ~~(ONE THOUSANT EIGHT HUNDRED RS.)~~ AND COURT FEES ANNEXED RS. 20/- (TWENTY)

SECOND APPEAL UNDER SECTION 100 OF THE CODE OF CIVIL PROCEDURE .

XI-HC-78

(126)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक S.A.(R.R) No.3670/ S.A. 34/2007 **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	16.01.2007 Appellant by Shri Janak Ram Verma with Shri Santosh Sahu. Advocate. Respondent by Shri H.B.Agrawal, Sr. Advocate with Ms. Sangeeta Mishra, Advocate on caveat. Shri J.R.Verma, learned counsel for the appellant submitted that the default, as pointed out by the Registry, has been removed and certified copy as well as typed copy have been filed. Heard on admission. The appellant is aggrieved by the judgment dated 07.11.2006 passed by Additional District Judge in Civil Appeal No. 12-A of 2005 whereby the judgment and decree dated 25.11.2005 passed by the Civil Judge, Class-I, Balodabazaar in Civil Suit No. 71-A of 2002 decreeing the suit for eviction on ground of bonafide requirement for expanding business was affirmed. Shri J.R. Verma, learned counsel for the appellant has contended that both the Courts below have erred in ignoring the admissions made by the plaintiff and his witnesses regarding alternative accommodation available to them. He placed reliance on *Deva (dead) through L.Rs. v. Sijan Kumar (dead) by L.Rs.* **(2003) 7 SCC 481**. I have considered the arguments advanced by the learned counsel for the appellant. I have also perused the certified copy of	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... S.A.(P.R.)No 3670/ SA 34/07 **सन्** 2006

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the judgment of both the Courts below as well as certified copy of the evidence of the plaintiff and his witnesses and also of the defendant.

I am of the considered opinion that both the Courts below have, on proper appraisal of the evidence on record, recorded a finding that the respondent/plaintiff's bonafide need for expanding business of his sons Rajiv and Sandeep was established. The mere fact of admission that son of the plaintiff-Rajeev Agrawal was running a computer shop in a shop adjacent to the tenanted premises would not by itself extinguish the bonafide need of the plaintiff for expansion of business especially in view of the fact that Sandeep P.W.3, son of the plaintiff was unemployed. Sandeep PW/3 has clearly stated that the portion of shop occupied by his brother was congested and he wanted to open his shop separately. SO far as the newly constructed portion behind the computer shop of Rajiv is concerned, he has clearly stated that such portion is residential. So far as the testimony of the defendant is concerned, it is also worthwhile to mention that he has also not denied in paragraph 2 that the need of the plaintiff for expanding business in the suit accommodation was bonafide. Thus, there are no such admissions on record which would negate the existence of a bonafide need of the plaintiff for expanding his son's business. I am therefore of the considered opinion that no substantial question of law is involved in this appeal. As a result, this appeal is dismissed at the stage of admission. There shall be no order as to costs.

Contd 3

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक SA(PR) 3670/ SA 34/07 **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Shri J.R.Verma, learned counsel for the appellant submits that such time for vacating the premises may be granted, as may appear just and necessary to this Hon'ble Court. Three months' time from today to vacate the suit premises is granted. Certified copy as per rules. **Sd/-** **Dilip Raosaheb Deshmukh** **Judge**	

Anjani

P.T.O.

Anjani 19.07.16 20.07.16